

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0590-01  
Bill No.: HB 0253  
Subject: Crimes and Punishment; Criminal Procedure; Licenses - Driver's; Attorneys  
Type: Original  
Date: February 15, 2011

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Bill Summary: This proposal authorizes prosecuting attorneys to utilize prosecution diversion programs and changes the penalties for various first offense misdemeanors.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	(Unknown)	(Unknown)	(Unknown)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(Unknown)</b>	<b>(Unknown)</b>	<b>(Unknown)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
MO Office of Prosecution Services*	\$0	\$0	\$0
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\*Offsetting revenues and costs of \$0 or Unknown per year, net to \$0.

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 8 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
<b>Local Government*</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\*Offsetting Local Government Revenues and Costs of \$0 or Unknown per year, net to \$0

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Office of the State Auditor, Office of State Courts Administrator, City of Raytown** and the **City of Kansas City** assume that there is no fiscal impact from this proposal.

Officials from the **City of Richmond** state the City has no comment on this proposal.

Officials from the **Office of the Attorney General** assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **County of Platte** state this proposal would have a positive impact for the State of Missouri and county governments. While the precise amount of the impact is difficult to estimate, a portion of the funds generated will fund statewide court automation. The remaining funds would offset the costs for diverting cases from criminal prosecution, which will also decrease state-funded public defender caseloads and state-funded criminal court caseloads.

Officials from the **Office of the State Public Defender (MSPD)** state the SPD provided representation in 5,941 cases in the designated categories during fiscal year 2010. That number includes all cases, not just the first offenses. The MSPD does not track first offenses separately from subsequent cases.

The creation of an inclusion of defender clients in any new diversion programs authorized by the other part of the legislation is at the discretion of the prosecutor. As a result, MSPD has no way of knowing how many cases this might save us, but it will undoubtedly save MSPD some.

**Oversight** assumes the MSPD could see a reduction in caseloads if the proposal passes; however, Oversight assumes the MSPD would not realize any fiscal impact from the proposal.

Officials from the **Office of Prosecution Services (OPS)** state this proposal will have a positive fiscal impact on the agency. The revenue that would be generated under this proposal would be dependent on the number of cases that prosecutors place into diversion programs. OPS states because no such formal structure currently exists, there is no existing benchmark on which to base an estimate of a dollar amount.

Officials for the **County of St. Louis** assume that the County would generate approximately \$30,000.00 of revenue if the County diverts 60 felony cases and 150 misdemeanors. The County assumes the Department of Corrections, Board of Probation and Parole will supervise these cases at their expense pursuant to Section 217.777, RSMo.

KG:LR:OD

ASSUMPTION (continued)

Officials from the **Department of Corrections (DOC)** state this bill authorizes prosecuting attorneys to utilize prosecution diversion programs and changes the penalties for various first offense misdemeanors. The Probation and Parole staff are frequently assigned to work with Diversion program clients and passage of this bill has the capability to increase caseloads for Probation and Parole staff. Additional FTE may be required to meet the demands of the diversion cases dependent on how the program is set up and utilized and the resulting impact on Probation and Parole. Therefore, any fiscal impact due to passage of this proposal is an Unknown cost per each year for the DOC.

**Oversight** assumes this bill authorizes prosecuting attorneys to utilize prosecution diversion programs and changes the penalties for various first offense misdemeanors. Oversight assumes it is unknown how many cases prosecutors would place into diversion programs; therefore, the impact to the DOC is an unknown cost.

**Oversight** assumes the administrative handling costs would be deposited into the county Administrative Handling Cost Fund and then distributed to the county prosecuting attorney. Oversight assumes the administrative handling cost would not be collected on all cases. Therefore, Oversight assumes the deposits in this fund to be equal to the costs of the county prosecuting attorney.

**Oversight** assumes the additional cost of five dollars per case paid by persons paying restitution would be deposited into the Missouri Office of Prosecution Services Fund. Oversight assumes the additional five dollars would not be collected on all cases. Oversight assumes the deposits into this would be used by the Office of Prosecution Services, as specified in Sections 56.750, 56.755, and 56.760, RSMo. Oversight assumes the deposits to be equal to the costs of the Office of Prosecution Services.

FISCAL IMPACT - State Government

FY 2012  
(10 Mo.)

FY 2013

FY 2014

**GENERAL REVENUE FUND**

Costs - Department of Corrections

Increase in caseloads for Probation  
and Parole staff

(Unknown)

(Unknown)

(Unknown)

**ESTIMATED NET EFFECT ON  
GENERAL REVENUE FUND**

**(Unknown)**

**(Unknown)**

**(Unknown)**

**MISSOURI OFFICE OF  
PROSECUTION SERVICES FUND**

Revenues - Office of Prosecution  
Services

Additional cost from persons paying  
restitution

Unknown

Unknown

Unknown

Costs - Office of Prosecution Services

Administrative costs

(Unknown)

(Unknown)

(Unknown)

**ESTIMATED NET EFFECT ON  
MISSOURI OFFICE OF  
PROSECUTION SERVICES FUND**

**\$0**

**\$0**

**\$0**

<u>FISCAL IMPACT - Local Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
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**LOCAL GOVERNMENT**

Revenues - Administrative Handling Cost  
 Fund

Fees collected for each case that is diverted	Unknown	Unknown	Unknown
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Costs - Administrative Handling Cost  
 Fund

Administrative costs	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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**ESTIMATED NET EFFECT ON  
 LOCAL GOVERNMENT**

<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This bill authorizes a prosecuting attorney, upon agreement with an accused or a defendant, to divert a criminal case to a prosecution diversion program for a period of six months to two years allowing for any statute of limitations to be tolled for that period. The prosecution diversion plan must be in writing and for a specific period of time, and the prosecuting attorney may impose conditions on the behavior and conduct of the accused or defendant that assures the safety and well-being of the community and the accused or the defendant. Any person participating in the program has the right to insist on criminal prosecution for the accused offense at any time.

### FISCAL DESCRIPTION (continued)

The bill also changes the specified class of certain misdemeanor violations to only be a misdemeanor violation and establishes fines and penalties for a violation of the provisions regarding:

- (1) Driver's licenses;
- (2) Motorcycle helmets;
- (3) Driving while revoked;
- (4) Financial responsibility; and
- (5) Purchase, possession, or consumption of alcohol by a minor

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

### SOURCES OF INFORMATION

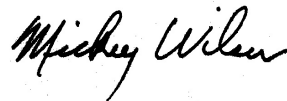
Office of State Courts Administrator  
Department of Corrections  
Office of the State Auditor  
Office of the Attorney General  
Office of Prosecution Services  
Office of the State Public Defender  
City of Kansas City  
City of Raytown  
County of Platte  
County of St. Louis

### NOT RESPONDING

Cities of: Ashland, Belton, Bernie, Bonne Terre, Boonville, California, Cape Girardeau, Clayton, Columbia, Dardenne Prairie, Excelsior Springs, Florissant, Frontenac, Fulton, Gladstone, Grandview, Harrisonville, Independence, Jefferson City, Joplin, Kearney, Kirksville, Knob Noster, Ladue, Lake Ozark, Lebanon, Lee Summit, Liberty, Linn, Louisiana, Maryland Heights, Maryville, Mexico, Neosho, O'Fallon, Pacific, Peculiar, Popular Bluff, Republic, Rolla, Sedalia, Springfield, St. Charles, St. Joseph, St. Louis, St. Robert, Sugar Creek, Sullivan, Warrensburg, Warrenton, Webb City, Weldon Spring, West Plains

NOT RESPONDING (continued)

Counties of: Andrew, Barry, Bates, Boone, Buchanan, Butler, Callaway, Camden, Cape Girardeau, Carroll, Cass, Clay, Cole, Cooper, DeKalb, Franklin, Greene, Hickory, Holt, Jackson, Jasper, Jefferson, Johnson, Knox, Laclede, Lafayette, Lawrence, Lincoln, Marion, Miller, Moniteau, Monroe, Montgomery, New Madrid, Nodaway, Ozark, Pemiscot, Perry, Phelps, Pulaski, Scott, St. Charles, St. Francois, Taney, Texas, Warren, Webster

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA  
Director  
February 15, 2011